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Protection of migrants

Report of the Secretary-General

Executive summary

Pursuant to General Assembly resolution 57/218 of 18 December 2002, entitled "Protection of migrants", the Secretary-General was requested to submit to the Assembly at its fifty-eighth session a report on the implementation of that resolution under the sub-item entitled "Human rights questions, including alternative approaches for improving the effective enjoyment of human rights and fundamental freedoms".

In resolution 57/218, the General Assembly requested all Member States to effectively promote and protect the human rights of all migrants. The Assembly also requested all States to firmly prosecute cases of violations of labour law with regard to the conditions of work of migrant workers and called upon them to review and, where necessary, revise immigration policies with a view to eliminating all discriminatory practices against migrants. Member States were encouraged to enact domestic criminal legislation to combat the international trafficking of migrants; and States were encouraged to consider participating in international and regional dialogues on migration and invited to consider negotiating bilateral and regional agreements on migrant workers in the framework of applicable human rights law. All Governments were encouraged to remove obstacles that might prevent the safe, unrestricted and expeditious transfer of earnings, assets and pensions of migrants to their country of origin or to any other countries.

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In resolution 57/218, the General Assembly also reiterated the need for all States parties to applicable international human rights instruments to protect fully the universally recognized human rights of migrants, especially women and children, regardless of their legal status, and to treat them humanely, in particular with regard to assistance and protection. All States were urged to adopt effective measures to put an end to the arbitrary arrest and detention of migrants, and called upon to protect migrant children, in particular unaccompanied migrant children, ensuring that the best interests of the children and the importance of reuniting them with their parents were the paramount consideration.

The present report contains a summary of communications received from 11 States: Croatia, Greece, Guatemala, Finland, Kuwait, Lebanon, Mexico, Nicaragua, Panama, Thailand and Togo. The communications provide information on legal provisions put in place by States to protect migrants, as well as programmes, campaigns and policies designed to this effect.

In this report, the Secretary-General welcomes the important development represented by the entry into force, on 1 July 2003, of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, which as of 15 June 2003 had been ratified by 22 States. In his recommendations, the Secretary-General urges Member States to ratify the Convention as well as the United Nations Convention against Transnational Organized Crime and the Protocols thereto on trafficking in persons and smuggling of immigrants. The Secretary-General further welcomes and encourages increased dialogue and cooperation between the United Nations and other bodies and organizations in the field of migration.

The Secretary-General also reports on the activities of the Special Rapporteur of the Commission on Human Rights on the human rights of migrants, and her main activities, concerns and recommendations; and encourages her to continue working for the protection of the human rights of migrants, in particular women and children, and to continue her programme of visits and to continue promoting dialogue and cooperation on the issue of migration and the protection of migrants.

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I. Introduction

1. In its resolution 57/218 of 18 December 2002, entitled "Protection of migrants", the General Assembly welcomed the renewed commitment made in the United Nations Millennium Declaration[1] to take measures to ensure respect for and protection of the human rights of migrants, to eliminate the increasing acts of racism and xenophobia in many societies and to promote greater harmony and tolerance in all societies. The Assembly strongly condemned all forms of racial discrimination and xenophobia with regard to access to employment, vocational training, housing, schooling, health services and social services, as well as services intended for use by the public, and welcomed the active role played by governmental and non-governmental organizations in combating racism and assisting individual victims of racist acts. The Assembly also welcomed immigration programmes that allowed migrants to integrate fully into the host countries and facilitated family reunification.

2. In the same resolution, the General Assembly requested all Member States to effectively promote and protect the human rights of all migrants requested all States to prosecute firmly cases of violation of labour law with regard to the conditions of work of migrant workers and called upon them to review and, where necessary, revise immigration policies with a view to eliminating all discriminatory practices against migrants, and encouraged Member States to enact domestic criminal legislation to combat the international trafficking of migrants. The Assembly encouraged States to consider participating in international and regional dialogues on migration and invited them to consider negotiating bilateral and regional agreements on migrant workers in the framework of applicable human rights law. All Governments were encouraged to remove obstacles that might prevent the safe, unrestricted and expeditious transfer of earnings, assets and pensions of migrants to their country of origin or to any other countries.

3. In resolution 57/218, the General Assembly reaffirmed the responsibility of Governments to safeguard and protect the rights of migrants against illegal or violent acts, in particular acts of racial discrimination and crimes perpetrated with racist or xenophobic motivation, and reaffirmed emphatically the duty of States parties to the Vienna Convention on Consular Relations of 1963[2] to ensure full respect for and observance of the Convention.

4. In the same resolution, the General Assembly reiterated the need for all States parties to the applicable international human rights instruments to protect fully the universally recognized human rights of migrants, especially women and children, regardless of their legal status, and to treat them humanely, in particular with regard to assistance and protection; urged all States to adopt effective measures to put an end to the arbitrary arrest and detention of migrants; and called upon all States to protect the human rights of migrant children, in particular unaccompanied migrant children ensuring that the best interests of the children and the importance of reuniting them with their parents were the paramount consideration.

5. In resolution 57/218, the General Assembly requested the Secretary-General to submit to the Assembly at its fifty-eighth session a report on the implementation of that resolution under the sub-item entitled "Human rights questions, including alternative approaches for improving the effective enjoyment of human rights and fundamental freedoms".

6. Pursuant to General Assembly resolution 57/128, the Office of the United Nations High Commissioner for Human Rights, on 5 February 2003 transmitted a note verbale to Governments, on behalf of the Secretary-General, requesting information on their implementation of that resolution. A similar communication had been issued on 30 April 2002 with regard to the report of the Secretary-General on the protection of migrants (A/57/134) submitted to the Assembly at its fifty-seventh session pursuant to Assembly resolution 56/170 of 19 December 2001. Some belated responses to the request of the Secretary-General contained in that report are included in the present report.

II. Reports on the status of implementation

7. The Permanent Mission of **Kuwait** to the United Nations in its communication dated 13 June 2002, reported that there were approximately 673,227 migrant workers in Kuwait as of April 2002, representing over 130 nationalities. The Kuwaiti Constitution and the laws in force guaranteed the protection and welfare of foreign workers without discrimination. In addition, the rights of workers were protected under labour laws, human rights conventions and international labour conventions. Other national legislation, including the Penal Code, endeavoured to strengthen the rules and guarantees for the protection of workers against violence and ill-treatment. The right to take legal action was guaranteed to migrants under the terms of article 166 of the Constitution.

8. According to article 18 of the Labour Code, it was prohibited to employ any boy or girl under age 14. The Code further established that minors over age 14 and under age 18 could not be employed in hazardous work or in occupations that were damaging to their health. Article 21 prohibited the employment of minors in night work, and article 22 stipulated a maximum working day of six hours for minors, subject to the condition that they did not work for more than four hours without a break. Articles 23 and 24 of the Labour Code prohibited the employment of women in work or occupations that were hazardous or damaging to their health, or in night work other than in national medical centres and other designated institutions. Article 27 of the Labour Code provided that men and women were entitled to equal pay for equal work.

9. The Bureau for Domestic Workers had been established to oversee agencies involved in the recruitment of domestic workers. Specific conditions had been imposed on the owners of recruitment agencies, including the provision that they had to pay a sum of 5,000 Kuwaiti dinars to the Ministry as a deposit that a worker could use to return to his or her country. Recruitment agencies were also requested to draw up a contract between domestic workers and the employer, stipulating minimum rights and guarantees for both parties. Civil courts had competence for hearing disputes arising from the application of a domestic worker's contract, in respect of which the statute of limitations expired only 15 years from the date of termination of the employment. All suits filed by workers under the Labour Code were exempt from court fees and were heard by the courts as a matter of priority. The Bureau for Domestic Workers further took preventive measures against domestic workers' sponsors who had infringed the law, consisting of prohibiting them from recruiting domestic workers or from issuing worker residence permits under their guarantee. The competent authorities were engaged in drafting a private sector labour code, taking into account comments and recommendations made by

the committee of experts on the application of international labour conventions and recommendations.

10. The Government of **Togo**, in its communication dated 1 July 2002, reported that the Constitution of 14 October 1992 incorporated, through its article 50, all international human rights instruments into the national legislation. The Commission of Legislative Harmonization ensured the conformity of internal laws, including those referring to migrants, with the Constitution. Measures for the protection of migrants had been established by the Ministry of the Interior, Security and Decentralization. The application of the immigration law was ensured by the technical services of the General Direction of the National Police. The Police had the competence to deliver residence permit to foreigners. Foreigners could obtain the certificate of Togolese nationality by naturalization. Migrants enjoyed the same rights as nationals without discrimination. Togo had ratified International Labour Organization (ILO) Convention No. 143 (Convention concerning Migrations in Abusive Conditions and the Promotion of Equality of Opportunity and Treatment of Migrant Workers)[3]. Article 23 of the Constitution provided that aliens could be expelled or extradited only upon the decision of a competent judicial authority.

11. The Government of **Thailand**, in its communication dated 15 July 2002, reported that there were approximately 1.5 million migrant workers comprising many irregular or undocumented workers, although the unofficial figures estimated the number of migrants to be between 1 million and 6 million. There were public concerns about the issues arising from the heavy influx of irregular migrant workers. Irregular migrants entering the country in violation of the Immigration Act of 1979 were to be arrested and prosecuted according to Thai national law. In the process of return, the Government collaborated closely with countries of origin to ensure respect of migrants' rights. Thailand and Myanmar were negotiating a Memorandum of Understanding to facilitate the process of entry and return of irregular migrants.

12. The Government was drafting a child protection act which would ensure equal protection to migrant children and would set a minimum standard of care to which children were entitled. According to the Department of Public Welfare, the majority of street children were migrant children from neighbouring countries who, if returned to their countries, would not go back to their families but rather seek ways to once again become migrants. The Thai Government was undertaking efforts, in cooperation with neighbouring countries, to return children directly to the care and supervision of their families and communities. Before their return, children were looked after at shelter homes in Thailand. The conditions of such centres were to be improved so that they could provide appropriate recreational and educational facilities. The Ministry of Education had initiated a project, expanded to include migrant children in 2002, to provide children with education opportunities. Migrant children enjoyed the same protection from forced labour as Thai children.

13. Thailand has signed the United Nations Convention against Transnational Organized Crime and the Protocols thereto on trafficking in persons and smuggling of migrants.[4] The International Law Enforcement Agency (ILEA) was established in Bangkok in 1999 to serve as a regional training centre for law enforcement, judicial and other officers and facilitate information-sharing on the suppression of transnational crime. Thailand, Sweden and the Philippines had formed a core group to draft a plan of action to counter trafficking in women and children in Asia and Europe. The Asian Regional Initiative against Trafficking in Women and Children

(ARIAT) was a forum in which more than 32 member countries and some non-governmental organizations participated and that had developed an action plan to combat trafficking of women and children. Thailand had set up the National Secretariat on Trafficking in Women and Children in the Mekong subregion to coordinate work with countries in the subregion. As a member of the Association of Southeast Asian Nations (ASEAN), Thailand participated in efforts to develop and implement an ASEAN plan of action to combat trafficking in women. The Thailand National Committee on Trafficking in Women and Children had developed the Memorandum of Understanding on Common Guidelines for Concerned Agencies to be Applied in the Case of Women and Children as Victims of Human Trafficking, with the objective of establishing common understanding, standard practice and guidelines among all agencies involved in trafficking cases. According to the Memorandum of Understanding, victims were not defined as offenders of the law and they were entitled to assistance and rights such as access to legal counsel, shelter, medical services and contact with non-governmental organizations and families. Thailand and Cambodia were in the process of finalizing a draft Memorandum of Understanding on cross-border cooperation on trafficking in women and children. It was expected that similar Memorandums of Understanding would be concluded with other countries in the region. Thailand was in the process of finalizing the National Plan on the Prevention and Solution of the Cross-country Border Trafficking in Children and Women (2001-2010). Domestic legislation had been amended to ensure harsh penalties for those involved in child prostitution and to codify crimes such as sexual harassment, sale of children as beggars, forced labour and labour exploitation.

14. In August 2001, the Ministry of Labour and Social Welfare was mandated to register irregular migrants who had not violated the Immigration Act and to provide them with work permits. An Administrative Commission on Irregular Migrant Workers was set up to lay down short- and long-term policies to solve the problem of irregular migration. Studies and analysis were to be undertaken on occupation and employment structures to ensure that the employment of irregular migrants filled in the vacancies of the Thai labour market.

15. When a worker was registered and employed, Thai legislation provided protection in terms of employment, salary and social services and employers were required to accord to migrant workers the same protection provided by law to Thai workers. An irregular migrant who had registered with the Ministry of Labour was entitled to have access to the public health service programme and health care without any discrimination.

16. The Government of **Nicaragua**, in its communication dated 19 September 2002, reported that the Constitution of the Republic of Nicaragua prohibited discrimination on the basis of, inter alia, nationality. The law provided for freedom of circulation for nationals and foreigners, provided that they had valid travel documents. Nicaragua had signed an agreement for the free circulation of persons with Guatemala, El Salvador and Honduras (Agreement CA-4). Within the country, foreigners could move freely and change their residence, upon informing the General Directorate of Migration (Dirección General de Migración y Extranjeria (DGME).

17. The General Directorate had undertaken a review of the legislative framework for the protection of migrants with a view to elaborating a draft law gathering all

relevant provisions, and also formulated draft legislation in the field of smuggling in accordance with the United National Convention against Transnational Organized Crime, to which Nicaragua was a State party. A migrants holding centre was created in 1997. Irregular migrants were held in the centre where measures to protect their rights were taken. They included: notifying their consular representatives; bringing the case before the competent judicial authority; informing the ombudsman; arranging for the migrant's return to the country of origin, as adequate, in cooperation with the International Organization for Migration (IOM); and facilitating communication between migrants and their families. Seminars and training for the officials of the General Directorate had been undertaken. The General Directorate provided humanitarian assistance to refugees and asylum-seekers with the support of organizations of the civil society. However funds available were not sufficient. Measures to stop trafficking, including travel document requirements for minors, were also reported. The Department of Control of Aliens had been created to combat smuggling.

18. The General Directorate participated in regional forums, such as the Regional Conference on Migration and the Central American Commission of Directors of Migration, in order to promote dialogue on joint procedures, measures and activities for the protection of the human rights of migrants.

19. The Government of **Croatia**, in its communications of 15 July 2002 and 13 May 2003, reported that, according to article 26 of the Constitution of the Republic of Croatia, all citizens and aliens shall be equal before courts, government bodies and other bodies vested with public powers. As a successor State of the former Socialist Federal Republic of Yugoslavia, the republic of Croatia had acceded to many relevant international instruments in the field of human rights, including the 1951 Convention relating to the Status of Refugees[5] and the 1967 Protocol thereto,[6] and the 1954 Convention relating to the Status of Stateless Persons.[7] Chapter XIII of the Criminal Code of the Republic of Croatia, entitled "Criminal offences against values protected by international law", sets out several criminal offences, such as "Racial and other discrimination", "Establishment of slavery and transport of slaves" and "International prostitution and illegal transfer of persons across the State border". "Trafficking in persons" was in the process of becoming a criminal offence. In accordance with article 36 of the Vienna Convention on Consular Relations of 1963, a mechanism had been established by the police department to enable detainees to communicate without interference with their consular representatives.

20. In May 2002, the Croatian Government set up the National Committee to Combat Trafficking in People. A national plan was under preparation, which would allow for greater coordination among competent ministries in the fight against trafficking and irregular migration. The Law on the Movement and Stay of Aliens and the Rules on the Issuing of Documents and Visas to Aliens contained the most relevant provisions vis-à-vis migrants. According to the law, minors shall have the right to stay with the parent who has been granted permanent residence and an alien may be granted an extended stay for the purpose of family reunion.

21. A new aliens act and asylum law were under legal procedure. These laws, whose draft contained detailed regulations concerning family reunification, integration into society, protection of vulnerable groups, as well as conditions of, and limitations on, detention of persons in the process of being deported and work

conditions, were to replace the Law on the Movement and Stay of Aliens and the 1992 Aliens Employment Act.

22. Croatia was part of regional initiatives for the protection of the rights of migrants, including the Budapest Process, the Adriatic-Ionian Initiative, the Central European Initiative, the Regional Task Force and the Stability Pact for Southeastern Europe. Under the Third Working Table of the Stability Pact for Southeastern Europe, the Working Group for the Suppression of Trafficking in Persons, in particular Women and Children, has been set up. The Office of the United Nations High Commissioner for Refugees (UNHCR), IOM and the International Centre for Migration Policy Development (ICMPD) had assisted in the organizations of numerous seminars in the past several years to train civil servants in human rights. Croatia, as a member State of the Council of Europe, participated in the work of the Committee for Migration and followed the migration policy and regulations on the legal status and other rights of migrants. It had established social indicators of the integration of migrants in the host society and common definitions with which to uniformly follow and analyse the migration movements in member States.

23. The Government of **Guatemala**, in its communication dated 16 May 2003, reported that Guatemala was a country of origin, transit and destination of migrants. The matter of migration was regulated by decree law 95/98 and by relevant international conventions, including the main human rights treaties and ILO Conventions Nos. 97 (Convention concerning Migration for Employment (Revised 1949)),[8] 143 and 105 (Convention concerning the Abolition of Forced Labour),[9] as well as regional instruments. In the application of these laws, Guatemala promoted respect for the human rights of migrants, with special attention to women and children.

24. The Government strived to raise public awareness about the phenomenon of migration and to combat negative attitudes against migrants. Great importance was given to mechanisms of cooperation and coordination with relevant consulates in order to strengthen the protection of, and assistance to, migrants. Priority was also given the issues arising from the concentration of migrants in border zones and to the speedy provision of documentation to migrants. Joint activities were undertaken with, inter alia, the ombudsman offices of El Salvador, Honduras and Nicaragua, some Guatemalan consulates in Mexico and the United States of America, the Inter-American Institute of Human Rights and the National Human Rights Commission of Mexico. In the framework of the Central American Commission of Directors of Migration, the CA-4 agreement had been established to facilitate the circulation of people in the region. El Salvador, Honduras, Guatemala and Nicaragua participated in this agreement. The Regional Conference on Migration also represented a forum for dialogue on migration issues. In the framework of the Puebla Plan Panama, there was a project for the establishment of an informatics system on migration statistics.

25. With regard to labour issues, priority was given to measures to ensure respect of migrants' labour rights and to the provision of training to migrant workers on their rights and obligations. Also, a better control of the flux of migrants across the borders of Tecún Umán and El Carmen, San Marcos, had been implemented. Capacity-building for the development of labour-generating projects, with the participation of migrants, was implemented.

26. IOM had assisted Guatemala in the establishment of an Office to assist migrants expelled from Mexico on the border of Tecún Umán. There were no

statistics or studies on the scope of the phenomenon of migration in Guatemala. Some non-governmental organizations and the Church had gathered some data and undertaken monitoring activities.

27. Migrants entering irregularly the territory of Guatemala from Mexico were taken by bus to the border with their country of origin by the General Directorate of Migration (Dirección General de Migración) with the support of the Embassy of the United States of America, according to an agreement signed on 13 June 2002.

28. Guatemala had ratified the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families[10] and established an Ad hoc Committee composed of representatives of the Ministry of Labour and the Department of Consular Affairs of the Ministry of Foreign Affairs to draft a plan of action for the implementation of the Convention. The Committee would meet twice a year. During its first meeting, the Ad hoc Committee established a Subgroup on labour issues. A document having been submitted to the Mexican authorities on problems faced by Guatemalan agricultural migrant workers, the Government of Mexico committed to providing a follow-up to the report. Mexico also committed to providing medical attention to Guatemalan migrant workers. The crime of racial discrimination was included in the Penal Code. Mechanisms of coordination between Guatemalan and Mexican authorities were established as part of the Plan for Security along the Border between Mexico and Guatemala. Also, initiatives to promote coordination between embassies and consulates and the communities of Guatemalan migrants had been undertaken. The resettlement of migrant workers to third countries was promoted; a pilot project was launched to resettle Guatemalan agricultural workers in Belize. Assistance, including legal, medical and social aid, was regularly provided to migrants and there was follow-up to complaints by undocumented migrants regarding incidents that had occurred in the context of detention, deportation or expulsion, with the involvement of the Office of the Ombudsman. Radio in border zones broadcasted information, in the native languages of the majority of migrants, on their rights and obligations.

29. The Government of **Lebanon**, in its communication dated 19 May 2003, indicated that Lebanon had consistently complied with the terms of international treaties relating to the protection of the human rights of migrants. In March 2002, Lebanon concluded an agreement with the International Centre for Migration Policy Development (ICMPD) to help irregular immigrants return voluntarily to their countries, and in May 2002 it took part in a conference organized by the Centre on the same subject. Lebanon had agreed to allow the IOM to open an office in Beirut in order to assist with the voluntary return of irregular immigrants to their countries. Lebanon had signed a Memorandum of Understanding with the regional office of UNHCR in Beirut. The General Directorate for Security was holding training sessions for its employees in order to inform them about new legal and work-related developments in this field.

30. The Government of **Finland**, in its communications dated 11 July 2002 and 21 May 2003, indicated that the Finnish Alien Act and international agreements by which Finland is bound regulated the entry, residence, employment and departure from Finland of aliens. At the end of 2002, the estimated unemployment rate among immigrants had fallen 2 percentage points from 2001. This had been achieved by enhanced guidance to migrants, workplace integration training, and vocational training including Finnish language teaching in cooperation with employers.

31. On 1 September 2001, the Ombudsman for Minorities was established. The Ministry of Labour had been implementing the Government Action Plan to Combat Ethnic Discrimination and Racism in cooperation with other ministries. The impact of the Action Plan in 2001 had been more evident in those ministries with no competence in immigration affairs. However, ministries with a few exceptions, had failed to hire immigrant employees.

32. In the communication received in 2001, the Government reported that the new school legislation aimed at establishing measures for monitoring the implementation of compulsory education and to prevent dropping out of school. Migrants' work experience and education acquired in their home countries were to be utilized more efficiently and, if needed, reinforced with further education. The Action Plan had further requested that the authorities ensured that there were no discriminatory practices in the administrative services. The new Government's programme stated that a complete reform of the Alien Act would be undertaken in full respect for international human rights, the principles of good governance and the rule of law.

33. The experience of migrants in facing racism and discrimination in Finland, and its impact on their mental well-being, were studied in 2001. The research results showed that experiences in facing racism and discrimination were fairly common among immigrants both at work and in other areas of everyday life. Twenty-eight per cent of migrants who participated in the study said that they had experienced insults, threats, crimes against property or some other racist act in the previous 12 months. Half of these acts had been insults and 26 per cent threats. Most migrants had not reported the act or the discriminatory behaviour to the police.

34. A first study on ethnic discrimination at work was undertaken in 2000. According to the study, 83.7 per cent of those interviewed (including migrants and ethnic minorities) felt that the main reason for their not having found a job was the high rate of unemployment and tough competition. Over three quarters of the migrants felt that their previous work experience was not valued in Finland and that their knowledge of the Finnish language was not adequate. Twenty per cent of migrants said that they had experienced inequality in the workplace from fellow employees. The lack of periods of internship and apprenticeship for migrants was felt to be a problem.

35. A research report on racism and ethnicity in the Finnish newspapers had been undertaken in 1999. In connection with the study, a monitoring tool to detect systematic ethnic discrimination in the media was developed. According to the study, foreigners, refugees and minorities were most often mentioned in articles discussing the views of the authorities. Open racism could be found only on some pages containing letters. Hardly any derogatory terms for immigrants were used and there were some articles consciously written to promote tolerance. In 2002, the monitoring was to be extended to the electronic media, including the Internet.

36. In the autumn of 2002, the Ministry of Labour had organized seminars and encouraged discussions on the issue of integration of migrants and, through the Advisory Board for Ethnic Relations, promoted ethnic equality and multiculturalism, inter alia, by organizing a national conference in December 2002 and by appointing 10 good-will ambassadors. Training for local authorities in the prevention of discrimination and dissemination of good practices was undertaken with the support of the European Union.

37. An Act regulating the Treatment of Aliens Taken into Custody and the Facilities Used for Such Purpose entered into force on 1 March 2002. According to the Act, aliens' rights could not be limited more than was necessary in terms of the purposes of detention and of maintaining general safety and order. In exceptional cases, aliens could be placed in police detention facilities for a maximum of four days, if the designed detention facilities were full or the alien had been taken into custody far from the nearest detention facility. Minors could be placed only in police detention facilities together with their families. Exceptional custody cases had to be reported to the district court without delay. Aliens taken into custody had the right to maintain contact with family, friends, consular representatives, the Ombudsmen on Minorities, human rights monitoring mechanisms, the public legal aid adviser and UNHCR.

38. The Government of **Mexico**, in its communication dated 22 May 2003, reported that the Federal Government had implemented measures to protect the rights of migrants, including: strengthened training on migration matters for the Beta groups and increased presence of these groups in high-risk zones; a campaign of information on abuses against undocumented migrants; the finalization of a project to enlarge the Federal District Migration Detention Facility (Estación migratoria); a strengthened programme of regularization of migrants, accompanied by information campaigns; cooperation with the National Institute for Migration to strengthen action for the protection of the human rights of migrants by national human rights commissions and ombudsmen; in the sphere of competence of the federal executive, the establishment of a legal framework for the protection of the human rights of migrants; in the framework of the Memorandum of Understanding with Guatemala, strengthening of the technical commission to promote information-sharing and undertake information campaigns in the border areas; and radio-broadcasted campaigns on the rights of Mexican migrants in the United States.

39. The Government also reported on measures adopted to implement the recommendations of the Special Rapporteur of the Commission on Human Rights on the human rights of migrants, who had visited the country from 25 February to 6 March 2002. They included: strengthening the National Institute for Migration by creating new posts; strengthening the Beta groups; and establishing rescue towers in the desert. Also, there were plans to strengthen cooperation between the Beta groups and the border patrols to rescue migrants and combat smuggling of migrants. The National Institute for Migration had planned to undertake 10 training courses for federal, national and municipal civil servants with responsibilities for the processing of undocumented migrant workers. Campaigns against extortion and abuse against migrants had been launched at the national level and a web page was regularly updated with information on the activities of the Beta groups. Through the Beta groups, information was disseminated on the risks of crossing the border in certain areas. In crossing zones, warning signals were positioned and flyers distributed. Vigilance around main points of expulsion was also strengthened. The punishment for the crime of smuggling was made more severe and authorities were trained on how to combat smuggling networks. In 2003, priority would be given to improving conditions in detention centres for migrants. Medical services were already strengthened in migrant detention centres. Migrants in detention received information on their rights, including the rights to contact consular or embassy officials. The Beta groups had increased the frequency of visits to detention centres.

40. In the framework of the Tuxtla cooperation mechanism, the Government of the State of Veracruz had offered a building for the establishment of a Central American Consulate. Central American countries were exploring all the implications of the establishment of such a Consulate. The Government of Mexico had a special interest in supporting this initiative. Measures were further undertaken to promote development of the communities of origin of migrants in Mexico, through a joint programme of several ministries aimed at developing capacities in families living in extreme poverty through actions integrally linked to health, nutrition and education. On 22 October 2002, the Senate had ratified the two Protocols to the United Nations Convention on Transnational Organized Crime on trafficking in persons and smuggling of migrants. At the national level, a review of national legislation with a view to making it compatible with international standards relating to migrants was ongoing.

41. In its communication dated 28 May 2003, the Government of **Greece** reported that, in an attempt to respond to increased migration flows, Greece had passed new legislation in 2001, setting the rules of entry and residence of aliens and providing that aliens should enjoy the same social security rights and social protection as Greek nationals. The Ministry of the Interior, Public Administration and Decentralization of the Hellenic Republic, which is the responsible authority for migration policy, had been organizing meetings with the communities of aliens every four or five months in the past two years to inform them about their rights and obligations. Greece had set up the Institute for Migration Policy with the objective of carrying out studies and implementing the migration policy, inter alia, concerning issues relating to the social and cultural integration of migrants and the provision of social services, such as education and social assistance.

42. Furthermore, within the Directorate of Aliens and Integration of the Ministry of the Interior, the Section of Social Integration had been established. A study was dedicated to the issue of integration of migrants. The Government reported that acts of xenophobia and racism had been isolated incidents. The Ministry of the Interior, Public Administration and Decentralization had participated with appointed representatives in the European Union Observatory on Racism and Xenophobia and had taken the initiative of creating a Coordinating Inter-Ministerial Committee with the mandate to elaborate and implement the National Action Plan for the Implementation of the Durban Declaration and Programme of Action. European Union Council Directives regarding the principles of equal treatment, inter alia, in employment and occupation, were being adopted to the national legislation.

43. In its communication dated 10 June 2003, the Government of **Panama** reported that a national radio campaign had been initiated to inform irregular migrants about immigrations norms and regulations. Also, the Government indicated that the immigration regulations were being revised and that a census of irregular migrants from China and India had been undertaken with a view to providing them with temporary permits and starting the process of their regularization, provided that they met the requirements established by law. The intention of the Government was to progressively realize a census of irregular migrants of other nationalities. A new manual on migration procedures was being drafted. The modernization of the 1960 migration legislation in order to combat more effectively the smuggling of persons and protect the human rights of all migrants was declared to be a priority.

III. Status of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families

44. The International Convention on the Protection of the Rights of All Migrants Workers and Members of Their Families will enter into force on 1 July 2003. As at 26 June 2003, 22 States had ratified the Convention: Azerbaijan, Belize, Bolivia, Bosnia and Herzegovina, Cape Verde, Colombia, Ecuador, El Salvador, Egypt, Ghana, Guatemala, Guinea, Mali, Mexico, Morocco, the Philippines, Senegal, Seychelles, Sri Lanka, Tajikistan, Uganda and Uruguay. The Secretary-General welcomes the entry into force of the Convention, which will assist in securing a protective mechanism for the human rights of migrants, including those in irregular situation. The Secretary-General urges all Member States that have not yet ratified the Convention to consider acceding to this instrument promptly. The Secretary-General also takes this opportunity to inform the General Assembly that in December 2003, the States parties will meet to elect the 10 members of the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families, which will monitor the compliance of States parties with the provisions of the Convention.

IV. Activities of the Special Rapporteur of the Commission on Human Rights on the human rights of migrants

45. In its resolution 57/218, the General Assembly took note of the interim report of the Special Rapporteur of the Commission on Human Rights on the human rights of migrants, (see A/57/292) and requested her to continue taking into account the recommendations contained in the Durban Declaration and Programme of Action adopted by the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance on 8 September 2001[11] in the performance of her mandate, tasks and duties. The Special Rapporteur was further requested to submit to the Assembly at its fifty-eighth session an interim report on the fulfilment of her mandate.

46. During the four years since the creation of the mandate, the Special Rapporteur has carried out official visits to Canada, Ecuador, Mexico, the region of the United States border with Mexico, and the Philippines. During 2003, the Special Rapporteur intends to continue her programme of visits, giving priority to African and European countries. She presented reports on three country visits to the Commission on Human Rights at its fifty-ninth session (E/CN.4/2003/85/Add.1-3 and Add.3/Corr.1). The Special Rapporteur's main report to the Commission on Human Rights focused on the issue of administrative detention of migrants (E/CN.4/2003/85). Her report to the sixtieth session of the Commission on Human Rights will focus on the situation of migrant domestic workers.

47. In the performance of her mandate, the Special Rapporteur has continued to maintain a dialogue with Governments on the situation of migrants. She presented an addendum to her main report to the Commission on Human Rights at its fifty-ninth session summarizing communications to and from Governments (E/CN.4/85/Add.1 and Add.1/Corr.1). The Special Rapporteur has actively participated in national, subregional and regional events focusing on the human

rights of migrants. In discharging her mandate, she has stressed that, for migration to take place in a context of dignity and respect, a new concept of migration management with human rights as an integral part thereof must be pursued. She has emphasized that migration management comprises an extremely complex series of processes which go well beyond unilateral restrictive measures and control. For this reason she has encouraged dialogue and cooperation among States, international and regional organizations, financial institutions, non-governmental organizations, the private sector and the civil society at large. The Special Rapporteur has also highlighted the need for strengthened efforts and cooperation to combat smuggling of migrants and trafficking in persons and to protect the victims.

V. Conclusions and recommendations

48. **The Secretary-General welcomes the efforts made by several Member States to report on the measures that they have adopted to protect migrants.**

49. **The Secretary-General takes note of the measures adopted by several countries to ensure that migrants are treated equally before the law and in a humane and respectful manner. The Secretary-General is particularly encouraged by the increasing number of bilateral and regional dialogues on migration, including the question of the protection of migrants.**

50. **The Secretary-General is also encouraged by the efforts of those States that have provided information on the legislative and administrative measures that are being undertaken to strengthen the protection of migrants and on the types of problems with which States and migrants are confronted. It is recommended that in future responses States include information on good practices, as well as obstacles, with respect to the protection of migrants. The Secretary-General invites States that have not yet done so to provide information on legislative and other measures that they are implementing to protect migrants.**

51. **The Secretary-General expresses his support for the work of the Special Rapporteur of the Commission on Human Rights on the human rights of migrants and encourages her to continue promoting at international events the protection of their human rights. He also encourages the Special Rapporteur to continue her programme of visits and to continue promoting dialogue and cooperation on the issue of migration and the protection of migrants.**

52. **The Secretary-General welcomes the entry into force of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families and urges Members States that have not done so to adhere to this instrument. The Secretary-General encourages States to make the declaration under article 77 of the Convention whereby a State party recognizes the competence of the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families to receive and consider communications from or on behalf of individuals subject to its jurisdiction who claim that their individual rights as established by the Convention have been violated by that State party.**

53. **The Secretary-General requests Member States to consider ratifying the United Nations Convention against Transnational Organized Crime and the Protocols thereto on smuggling of migrants and trafficking in persons.**

54. **The Secretary-General is encouraged by the increased dialogue and cooperation between the United Nations and other bodies and organizations in the field of migration and encourages them to continue along this path.**

55. **The Secretary-General encourages States, in their follow-up to the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, to include aspects relating to migrants in their national plans of action.**

Notes

[1] See General Assembly resolution 55/2.

[2] United Nations, *Treaty Series*, vol. 596, No. 8638.

[3] See International Labour Organization, *International Labour Conventions and Recommendations, 1952-1976*, vol. II (Geneva, International Labour Office, 1996), sect. I.

[4] General Assembly resolution 55/25, annexes I-III.

[5] United Nations, *Treaty Series*, vol. 189, No. 2545.

[6] Ibid., vol. 606, No. 8791.

[7] Ibid., vol. 360, No. 5158.

[8] See International Labour Organization, *International Labour Conventions and Recommendations, 1919-1951*, vol. I (Geneva, International Labour Office, 1996), sect. I.

[9] Ibid., vol. II, sect. I.

[10] General Assembly resolution 45/158, annex.

[11] See A/CONF.189/12 and Corr.1, chap. I.